

Notice of Allowability**Application No.**

09/602,079

Examiner

Quochien B Vuong

Applicant(s)

O'BYRNE, VINCENT A.

Art Unit

2685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 06/30/04.
2. ☒ The allowed claim(s) is/are 1, 7, 9, 13, 19, and 21-26 which are renumbered as 1-11.
3. ☒ The drawings filed on 22 June 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

2. The application has been amended as follows:

In the Specification:

At the beginning of the page 1, add --This is a continuation of application Ser. No. 09/050,680, filed Mar. 30, 1998, now U.S. Pat. No. 6,243,584.--.

In the Claims:

Cancel claims 2-6, 8, 10-12, 14-18, and 20.

Terminal Disclaimer

3. The terminal disclaimer filed on 06/30/04 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 6,243,584 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Reasons for Allowance

4. The examiner's amendment is used to cancel claims 2-6, 8, 10-12, 14-18, and 20 as indicated on page 2 of the Communication received on 06/22/00. Those claims had

Art Unit: 2685

not been canceled since they were not included in the Amendment section. In addition, the continuation data is added in the specification. The examiner's amendment is needed in order to put the case in condition for allowance.

5. Claims 1, 7, 9, 13, 19, and 21-26 are allowed over the cited prior art.

6. The following is an examiner's statement of reasons for allowance:

Applicant has filed the Terminal Disclaimer to over come the double patenting rejection in the previous Office action mailed 03/30/04; therefore, claims 1, 7, 9, 13, 19, and 21-26 are now allowable over the cited prior art.

Regarding the independent claims 1, 7, 13, 19, and 21-26, the cited prior art fails to teach the method, system, and computer program product for increasing capacity of a wireless network having a plurality of cells sites comprising the steps of determining signal quality parameters associated with at least one cell site of the plurality of cell sites and modifying the pool of available frequencies for assignment based on the determining signal quality parameters associated with the at least one cell site in addition to the steps of defining the pool of available frequencies and assigning the pool of available frequencies to limit neighboring cell sites assigned a same frequency.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

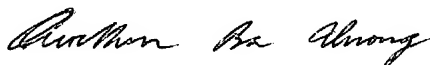
Art Unit: 2685

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quochien B Vuong whose telephone number is (703) 306-4530. The examiner can normally be reached on M-F 9:30-18:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on (703) 305-4385. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**QUOCHIE B. VUONG
PRIMARY EXAMINER**

Quochien B. Vuong

Sep. 02, 2004.